

STATE OF MICHIGAN
IN THE MICHIGAN COURT OF APPEALS

KATHARINE LEE BARR,

Plaintiff-Appellee,

v.

JEFFREY THOMAS HALL,

Defendant-Appellant.

Court of Appeals No. 322684

Wayne County Circuit Court
No. 14-103922-PP
Hon. Kevin J. Cox

Katharine Lee Barr
IN PRO PER
1532 Hollywood Avenue
Grosse Pointe Woods, MI 48236

MILLER, CANFIELD, PADDOCK
AND STONE, PLC
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DEFENDANT-APPELLANT'S BRIEF ON APPEAL

ORAL ARGUMENT REQUESTED

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**STATEMENT OF THE BASIS OF JURISDICTION
OF THE COURT OF APPEALS**

This Court has jurisdiction pursuant to MCR 7.202(6)(a)(i) and MCR 7.203(A)(1). Appellant Jeffrey T. Hall filed a timely claim of appeal on July 2, 2014 from the final order of the circuit court dated June 11, 2014 denying his motion to terminate the ex parte personal protection order in this matter. See MCR 7.204(A)(1)(a).

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STATEMENT OF QUESTION INVOLVED

Should the order of the circuit court dated June 11, 2014, denying Appellant's motion to terminate a PPO, be reversed where Defendant-Appellant requested an evidentiary hearing but the circuit court declined to allow Defendant-Appellant to present testimony and other evidence in support of his motion?

Appellant says "Yes".

The trial court said "No".

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STATEMENT OF FACTS

Plaintiff-Appellee Katharine Barr and Defendant-Appellant Jeffrey T. Hall are residents of Grosse Pointe Woods and Grosse Pointe Park, respectively. Plaintiff is a married woman, while Defendant is a single man and a candidate for the Michigan State Senate, District 2, in the November 4, 2014 general election.¹ Plaintiff filed an ex parte petition for a personal protection order (PPO) against Defendant on April 10, 2014, alleging that Defendant was paying unwanted attention to her after the end of a dating relationship by, for example, appearing at a gym where both were members and at a public movie theater. (**Exhibit A**). Plaintiff alleged no physical violence or threats of violence by Defendant. The trial court, Hon. Kevin J. Cox, entered an ex parte PPO on that date. (Id.).

Defendant filed a timely motion to terminate the PPO on April 17, 2014. (**Exhibit B**). The motion was heard by Hon. Charlene M. Elder on June 11, 2014. Plaintiff appeared in pro per, while defendant was represented by counsel. The hearing lasted 22 minutes. See H. Tr. June 11, 2014 (**Exhibit C**). The court, initially under the mis-impression that the motion was one for a PPO (see id. at p. 7), placed Plaintiff and Defendant under oath (id. at pp. 3-5), then allowed Plaintiff to present narrative testimony in response to the court's question "Why do you feel you need this PPO against Mr. Hall and how to you know him?" (Id. at pp. 5-8). The court then heard oral argument from Defendant's counsel, during which he requested the opportunity to submit testimony and other evidence (id. at pp. 8-12); allowed Plaintiff to respond without ruling on counsel's hearsay objections (id. at pp. 12-14); and then denied the motion (id at pp. 14-15, 20). The court rejected Mr. Hall's renewed request that he be allowed to submit testimony and other evidence. (Id. at pp. 17-18). The trial court entered its order denying the

¹ See Exhibit A to Motion to Expedite Appeal, filed herewith.

motion to terminate on the same date. (**Exhibit D**). It thus denied Defendant any opportunity to submit testimony or other evidence, despite his repeated request that he be allowed to do so.

Had Defendant been afforded an opportunity to present evidence, he would have shown that Plaintiff's allegations were false or misleading, that there was no basis for the entry or continuation of the PPO, and that if anyone was guilty of paying unwanted attention to the other it was Plaintiff, not Defendant. Defendant would also have shown the court that he is a licensed firearm instructor and needs access to firearms to earn a living. Again, there is no claim or evidence that Defendant has ever physically harmed or threatened Plaintiff.

Defendant filed a timely claim of appeal to this Court on July 2, 2014.

ARGUMENT

I. STANDARD OF REVIEW.

This Court reviews a trial court's order granting or denying a motion to terminate an ex parte PPO under the same standard as an order granting a PPO. *Hayford v Hayford*, 279 Mich App 324, 326; 760 NW2d 503 (2008). The petitioner bears the burden of establishing reasonable cause for issuance of a PPO, *Kampf v Kampf*, 237 Mich App 377, 385-86; 603 NW2d 295 (1999), and of establishing a justification for the continuance of a PPO at the hearing on a motion to terminate a PPO. *Hayford*, 279 Mich App at 326; MCR 3.310(B)(5) ("[a]t a hearing on a motion to dissolve a restraining order granted without notice, the burden of justifying the continuation of the order is on the applicant for the restraining order, whether or not the hearing has been consolidated with a hearing on a motion for a preliminary injunction or an order to show cause.").

The determination of whether to issue or continue a PPO is reviewed for abuse of discretion, *Pickering v Pickering*, 253 Mich App 694, 700-01; 659 NW2d 649 (2002), and the

trial court's findings of fact are reviewed for clear error. *Sweebe v Sweebe*, 474 Mich 151, 154; 712 NW2d 708 (2006). An abuse of discretion occurs when the outcome falls outside the range of principled outcomes. *Woodard v Custer*, 476 Mich 545, 557; 719 NW2d 842 (2006). Questions of statutory interpretation, however, are reviewed de novo. *State Farm Fire & Cas Co v Corby Energy Services, Inc*, 271 Mich App 480, 483; 722 NW2d 906 (2006).

II. THE CIRCUIT COURT ERRED WHEN IT DENIED DEFENDANT-APPELLANT'S REQUEST FOR AN EVIDENTIARY HEARING ON HIS MOTION TO TERMINATE THE PPO.

The issue presented by this appeal is a simple one. The relevant statutory and case law requires the trial court to conduct an evidentiary hearing on a motion to terminate a personal protection order when the Defendant requests such a hearing. "The trial court must consider the testimony, documents, and other evidence proffered and whether the Respondent had previously engaged in the listed acts." *Hayford*, 279 Mich App at 326, citing MCL 600.2950(4). The Defendant here requested the opportunity to submit testimony and other evidence, but the circuit court refused to allow him to do so. Defendant was not allowed to cross examine the Plaintiff, nor was Defendant allowed to present his own testimony, testimony from third parties and evidence to refute the Plaintiff's allegations and put the facts in a proper context. The circuit court's refusal to conduct an evidentiary hearing was legal error, reviewable *de novo* by this Court, or in the alternative was an abuse of discretion.

The trial court must issue a PPO if it finds that "there is reasonable cause to believe that the individual to be restrained or enjoined may commit 1 or more of the acts listed in subsections (1)." MCL 600.2950(4). The relevant acts include stalking, as defined in MCL 750.411(h)(1)(d) ("Stalking" means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a **reasonable person** to feel terrorized, frightened,

intimidated, threatened, harassed, or molested **and** that actually cause the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested,” emphasis added), or “[a]ny other specific act or conduct which imposes upon or interferes with personal liberty or causes a reasonable apprehension of **violence**.” MCL 600.2950(1)(i), (j) (emphasis added).

MCL 600.2950(4) requires the circuit court to consider “[t]estimony, documents or other evidence” in determining whether to enter a personal protection order. The court must also “schedule a hearing on the motion to modify or rescind the ex parte personal protection order within 14 days after the filing of the motion to modify or rescind.” MCL 600.2950(14). Also see MCR 3.707(A)(1)(b), (2) (“The respondent may file a motion to modify or terminate an ex parte personal protection order . . . and request a hearing within 14 days after being served with, or receiving actual notice, of the order”, and “[t]he court must schedule and hold the hearing on the motion to modify or terminate a personal protection order within 14 days of the filing of the motion . . .”).

While MCL 600.2950 is silent as to the form of a hearing on a motion to terminate or modify a PPO, decisions of this court make it clear that the respondent is entitled to an evidentiary hearing upon request where the PPO was entered ex parte. To hold otherwise would deny the respondent due process of law. In *Pickering v. Pickering*, 253 Mich App 694; 659 NW2d 649 (2003), the Court held that “under MCR 3.310(B)(5), the burden of justifying continuation of a PPO granted ex parte is on the applicant for the restraining order.” 253 Mich App at 699. This Court affirmed the order denying the motion to terminate where the circuit court “heard all the evidence and specifically held that the evidence established there was sufficient facts to justify the earlier entry of the ex parte PPO.” *Id.* at 699-700.

Two unpublished opinions of this Court are directly in point. In *Peterson v Peterson*, No. 283188, 2008 WL 3439888 (unpublished opinion of the Court of Appeals dated June 17, 2008) (**Exhibit C**), the circuit court refused to allow the respondent to present evidence in support of his motion to terminate an ex parte PPO because he had allegedly violated that order. This Court reversed, holding that MCR 3.707(A)(2) requires the circuit court to provide respondent a “‘meaningful opportunity’ to present his defense to the issuance of the ex parte PPO.” *Id.* at *4. The Court stated:

MCR 3.707(A)(2) states, in pertinent part, that “[t]he court must schedule and hold the hearing on a motion to modify or terminate a personal protection order within 14 days of the filing of the motion” Based on this language, respondent argues that the trial court was required to hold the hearing and to “allow [respondent] a meaningful opportunity to challenge the merits of the ex parte personal protection order.” We agree, and conclude that respondent was denied a “‘meaningful opportunity’ to present his defense to the issuance of the ex parte personal protection order.”

Id. Under the reasoning of *Peterson*, the circuit court’s refusal to allow the respondent to present evidence was legal error.

In *Baker v Holloway*, No. 288606, 2010 WL 292991 (unpublished opinion of the Court of Appeals dated Jan. 26, 2010) (**Exhibit E**), the hearing referee refused to provide the respondent an evidentiary hearing on her motion to terminate an ex parte PPO, instead ordering the parties to mediation. This Court held that the respondent had a “statutory right to a hearing on the merits of the PPO,” and that when the referee “declined to take proofs from respondent,” he “effectively denied respondent her statutory right to a prompt and timely review of the PPO. This amounted to an abuse of discretion.” *Id.* at *3. Under the reasoning of *Baker*, the trial court’s refusal to allow Defendant to submit testimony and other evidence was an abuse of discretion.

Under this court's holdings in *Pickering*, *Peterson*, and *Baker*, Defendant had a right under MCL 600.2950 and MCR 3.707(A)(2) to an evidentiary hearing at which he would have a meaningful opportunity to present testimony and other evidence to rebut the Petitioner's assertions, and the trial court denied this right when it refused to allow Defendant to submit testimony and other evidence. Whether viewed as legal error as in *Peterson*, or an abuse of discretion as in *Baker*, the trial court's refusal was error that must be reversed.

Petitioner's assertions here do not involve actual or threatened violence; they involve allegations that respondent paid unwanted attention to Petitioner after the termination of their romantic relationship, such as appearing at a gym (where he is a member) and a movie theatre where Petitioner was present, and driving past her house. Had he been afforded an evidentiary hearing, Defendant would have shown that Petitioner's allegations are untrue or overstated and not a basis for the entry or continuation of the ex parte PPO.

Two unreported decisions of this Court involving very similar facts demonstrate that whether or not the ex parte PPO here should have been entered, Defendant's motion to terminate should have been granted. In *Coolman v Laisure*, No. 224050, 2001 WL 1545927, *2 (unpublished opinion of the Court of Appeals dated Nov. 30, 2001) (**Exhibit F**), this Court reversed an order denying a motion to terminate a PPO, holding that "the circuit court clearly erred in finding that respondent 'stalked' petitioner" based on normal contacts after the end of a romantic relationship. In *Lipscombe v Lipscombe*, No. 287822, 2010 WL 395762, *3 (unpublished opinion of the Court of Appeals dated Feb. 4, 2010) (**Exhibit G**), this Court held that the trial court abused its discretion by refusing to terminate an ex parte PPO where "the alleged incidents were 'pretty commonplace' and 'normal' for couples who were experiencing marital difficulties". The *Lipscombe* Court also noted that a PPO is entered in the law

enforcement information network (LEIN), and even after its expiration “may have criminal implications for individuals pursuing occupations that require a criminal background check or the carrying of a firearm.” See *id.* at *2. Here, the PPO is similarly affecting respondent’s livelihood and ability to support his children by working as a firearms instructor.

Defendant is a candidate for the Michigan State Senate, and should be able to exercise his First Amendment rights by campaigning for that office in public places and by knocking on doors in the parties’ community, without fear that Plaintiff may be present. Indeed, exactly such inadvertent contacts led Plaintiff to assert falsely, in a motion filed on August 22, 2014, that Defendant had violated the PPO by appearing in public places and by knocking on her friend’s door to seek signatures for his nominating petition. See **Exhibit H**. That motion is set for hearing on October 9, 2014, only weeks before the general election on November 4. (See *id.*) Only an expedited appeal and reversal will avoid immediate and irreparable harm to Defendant in the November 4 election.

RELIEF REQUESTED

For the reasons set forth herein and in his motions for expedited appeal and immediate consideration, filed herewith, Defendant-Appellant prays that this Court expedite briefing and argument and enter its order vacating the order of the trial court denying his motion to terminate the ex parte personal protection order and remand for dismissal of the petition. In the alternative, Defendant prays that this Court expedite the appeal in this matter, vacate the order of the circuit court and remand the matter to the Hon. Kevin Cox, who entered the ex parte PPO, for an evidentiary hearing at which Plaintiff will have the burden of proof as to whether the PPO should be continued and Defendant will have a full opportunity to present testimony and other evidence.

**STATEMENT REGARDING ORAL ARGUMENT
PURSUANT TO MCR 7.214(E)(2)**

Defendant-Appellant has requested oral argument to preserve his right in the event that Plaintiff-Appellee also requests oral argument. Simultaneously with this brief, however, Defendant-Appellant has filed a motion requesting the Court to expedite this appeal, shorten the briefing schedule and issue its decision at the earliest practicable date. In order to do so, the Court should decide this matter without oral argument by either party pursuant to MCR 7.214(E)(1).

Respectfully submitted,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

By: /s/Larry J. Saylor

Larry J. Saylor

Attorneys for Defendant-Appellant

Jeffrey T. Hall

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Detroit, MI 48226

(313) 963-6420

saylor@millercanfield.com

Dated: September 2, 2014

CERTIFICATE OF SERVICE

I hereby certify that on September 2, 2014, I electronically filed the foregoing document with the Clerk of the court using the ECF system which will send notification of such filing to all attorneys of record, and I also served the above document, via U.S. Mail, upon:

Katharine Lee Barr
1532 Hollywood Avenue
Grosse Pointe Woods, MI 48236

/s/Larry J. Saylor
Larry J. Saylor (P28165)
Attorneys for Plaintiff/Counter-Defendant-
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EXHIBITS

- A. Personal Protection Order (Ex Parte), Petition for Personal Protection Order and Verified Addendum to Petition for a PPO
- B. Motion to Modify, Extend or Terminate Personal Protection Order
- C. Hearing transcript of Defendant's June 11, 2014 Motion to Terminate Personal Protection Order
- D. June 11, 2014 Order on Motion to Modify, Extend or Terminate Personal Protection Order
- E. *Baker v. Holloway*, No. 288606, 2010 WL 292991 (unpublished opinion of the Court of Appeals dated January 26, 2010)
- F. *Coolman v. Laisure*, No. 224050, 2001 WL 1545927, *2 (unpublished opinion of the Court of Appeals dated November 30, 2001)
- G. *Lipscombe v. Lipscombe*, No. 287822, 2010 WL 395762, *3 (unpublished opinion of the Court of Appeals dated February 4, 2010)
- H. August 22, 2014 Motion and Order to Show Cause for Violating Valid Personal Foreign Protection Order

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EXHIBIT A

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Approved, SCAO

Original - Court

1st copy - Law enforcement agency (file) (green)

2nd copy - Respondent (blue)

3rd copy - Petitioner (pink)

STATE OF MICHIGAN
THIRD JUDICIAL CIRCUIT
WAYNE COUNTY

(A)

PERSONAL PROTECTION ORDER
EX PARTE
(DOMESTIC RELATIONSHIP)

Barr, Katharine
Hall, Jeffrey
Hon. Docket Judge PPO

VS

14-103922-PP

04/10/2014

Court address

ORI
MI- 820025J

2 WOODWARD AVE, CAYMC BLDG., COURT ROOM 1801, Detroit MI

(313) 224-0120

Petitioner's name
Katharine Barr
Address and telephone no. where court can reach petitioner
1532 Hollywood Ave. #313.326.7082
Grosse Pointe Woods, MI 48236

Respondent's name, address, telephone no., and DLN
Jeffrey T. Hall #313.495.6228
888 Trombley
Grosse Pointe Park, MI 48236

Height <u>6'3"</u>	Weight <u>190</u>	Race <u>W</u>	Sex <u>M</u>	Date of birth or age <u>2-25-69</u>	Hair color <u>Grey</u>	Eye color <u>Brown</u>	Other identifying information <u>lean</u>
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*These items must be filled in for the police/sheriff to enter on LEIN; the other items are not required but are helpful. **Needed for NCIC entry.

- Date: 4/10/2014 Judge: Cox ☒ no hearing. ☐ **after hearing
- ☒ 1. A petition requested respondent be prohibited from entry onto the premises, and either the parties are married, petitioner has property interest in the premises, or respondent does not have a property interest in the premises.
- ☒ 2. Petitioner requested an ex parte order, which should be entered without notice because irreparable injury, loss, or damage will result from the delay required to give notice or notice itself will precipitate adverse action before the order can be issued
- ☒ 3. Respondent poses a credible threat to the physical safety of the petitioner and/or a child of the petitioner.
- ☒ 4. Respondent ☐ **is the spouse or former spouse of the petitioner, had a child in common with the petitioner, or is residing or had resided in the same household as the petitioner. ☒ has or had a dating relationship with the petitioner.

IT IS ORDERED:

5. Jeffrey T. Hall is prohibited from:
- ☒ a. entering onto property where petitioner lives.
- ☐ b. entering onto property at _____
- ☒ c. assaulting, attacking, beating, molesting, or wounding Katharine Barr
- ☐ d. removing minor children from petitioner who has legal custody, except as allowed by custody or parenting-time order provided removal of the children does not violate other conditions of this order. An existing custody order is dated _____ . An existing parenting-time order is dated _____
- ☒ e. stalking as defined under MCL 750.411h and MCL 750.411i that includes but is not limited to;
- ☐ following petitioner or appearing within his/her sight. ☒ appearing at petitioner's workplace or residence.
- ☒ sending mail or other communications to petitioner. ☒ contacting petitioner by telephone.
- ☒ approaching or confronting petitioner in a public place or on private property.
- ☒ entering onto or remaining on property owned, leased, or occupied by petitioner.
- ☐ placing an object on or delivering an object to property owned, leased, or occupied by petitioner.
- ☐ f. interfering with petitioner's efforts to remove his/her children/personal property from premises solely owned/leased by respondent.
- ☒ g. threatening to kill or physically injure Katharine Barr
- ☐ h. interfering with petitioner at his/her place of employment or education or engaging in conduct that impairs his/her employment or educational relationship or environment.
- ☐ i. having access to information in records concerning a minor child of petitioner and respondent that will reveal petitioner's address, telephone number, or employment address or that will reveal the child's address or telephone number.
- ☒ j. purchasing or possessing a firearm.
- ☒ k. other: Respondent is prohibited from posting/distributing any photos or videos of petitioner
6. As a result of this order, federal and/or state law may prohibit you from possessing or purchasing ammunition or a firearm.
7. Violation of this order subjects respondent to immediate arrest and to the civil and criminal contempt powers of the court. If found guilty, respondent shall be imprisoned for not more than 93 days and may be fined not more than \$500.00.
8. This order is effective when signed, enforceable immediately, and remains in effect until 4/10/2015. This order is enforceable anywhere in this state by any law enforcement agency when signed by a judge, and upon service, may also be enforced by another state, an Indian tribe, or a territory of the United States. If respondent violates this order in a jurisdiction other than this state, respondent is subject to enforcement and penalties of the state, Indian tribe, or United States territory under whose jurisdiction the violation occurred.
9. The court clerk shall file this order with MICHIGAN STATE POLICE /DPD who will enter it into the LEIN.
10. Respondent may file a motion to modify or terminate this order. For ex parte orders, the motion must be filed within 14 days after being served with or receiving actual notice of the order. Forms and instructions are available from the clerk of court.
11. A motion to extend the order must be filed 3 days before the expiration date in item 8 or a new petition must be filed.

Date and time issued

Judge

Bar no.

cc 376 (3/12) PERSONAL PROTECTION ORDER (Domestic Relationship) MCL 600.2950, MCR 3.705, MCR 3.706, 18 USC 922(g)(8)(c)

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Approved, SCAO

Original - Court
1st copy - Judge/Assignment clerk
2nd copy - Respondent (blue)

Bar Katharine
Hall, Jeffrey
Hon. Docket Judge PPO

3rd copy - Petitioner (pink)

VS

STATE OF MICHIGAN
JUDICIAL CIRCUIT
COUNTY

PETITION FOR
PERSONAL PROTECTION C
(DOMESTIC RELATIONS)

14-103922-PP

04/10/2014

Court address

Court telephone no.

A Petitioner name <u>Katharine Barr</u> Address and telephone no. where court can reach petitioner <u>1532 Hollywood Ave *313.326.</u> <u>Grosse Pointe Woods, MI 48236 7082</u>	Age <u>32</u>	Respondent name, address, and telephone no. <u>Jeffrey T. Hall 313.</u> <u>888 Trombley 495.6228</u> <u>Grosse Pointe Park, MI 48230</u>	Age <u>45</u>
---	------------------	---	------------------

- B** 1. The petitioner and respondent: ☐ are husband and wife. ☐ were husband and wife. ☐ have a child in common.
☒ have or had a dating relationship. ☐ reside or resided in the same household.
- C** 2. ☐ The respondent is required to carry a firearm in the course of his/her employment. ☐ Unknown.
- D** 3. a. There ☐ are ☒ are not other pending actions in this or any other court regarding the parties.

Case number	Name of court and county	Name of judge
-------------	--------------------------	---------------

- b. There ☐ are ☒ are not orders/judgments entered by this or any other court regarding the parties.

Case number	Name of court and county	Name of judge
-------------	--------------------------	---------------

- E** 4. I need a personal protection order because: Explain what has happened (attach additional sheets).

See Attached Statement

- F** 5. I ask the court to grant a personal protection order prohibiting the respondent from:
- ☐ a. entering onto the property where I live. I state that either I have a property interest in the premises, I am married to the respondent, or the respondent has no property interest in the premises.
- ☒ b. entering onto the property at 23401 Jefferson Ave, SCS, MI
Address
- ☒ c. assaulting, attacking, beating, molesting, or wounding Katharine Barr
Name(s)
- ☐ d. removing the minor children from the petitioner who has legal custody, except as allowed by a custody or parenting time order as long as removal of the children does not violate other conditions of the personal protection order.
- ☒ e. stalking as defined under MCL 750.411h and MCL 750.411i, which includes but is not limited to:
- ☒ following me or appearing within my sight. ☒ appearing at my workplace or residence.
 - ☒ sending mail or other communications to me. ☒ contacting me by telephone.
 - ☒ approaching or confronting me in a public place or on private property.
 - ☒ entering onto or remaining on property owned, leased, or occupied by me.
 - ☒ placing an object on or delivering an object to property owned, leased, or occupied by me.
- ☐ f. interfering with efforts to remove my children/personal property from premises solely owned/leased by the respondent.
- ☒ g. threatening to kill or physically injure Katharine Barr
- ☒ h. interfering with me at my place of employment or education or engaging in conduct that impairs my employment or educational relationship or environment.
- ☒ i. having access to information in records concerning a minor child of mine and the respondent that will reveal my address, telephone number, or employment address or that will reveal the child's address or telephone number.
- ☒ j. purchasing or possessing a firearm.
- ☒ k. other: releasing private photos and/or videos of Katharine

- G** 6. I make this petition under the authority of MCL 600.2950/MCL 600.2950a and ask the court to grant a personal protection order.
☒ I request an ex parte order because immediate and irreparable injury, loss, or damage will occur between now and a hearing or because notice itself will cause irreparable injury, loss, or damage before the order can be entered.
- H** ☐ 7. I have a next friend petitioning for me. I certify that the next friend is not disqualified by statute and is an adult.

I 4-10-2014
Date

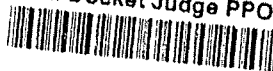
Katharine Barr
Petitioner's signature

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STATE OF MICHIGAN
3rd CIRCUIT COURT
WAYNE COUNTY

VERIFIED
ADDENDUM TO PETITION
FOR A PPO

Barr, Katharine
Hall, Jeffrey
Hon. Docket Judge PPO



14-103922-PP

04/10/2014

vs

PETITIONER

Age

RESPONDENT

Age

Katharine Barr

32

v.

Jeffrey Hall

45

What has this person done to make you feel that you need a PPO? Give the date when it occurred, location where the incident occurred, and state what actually happened. PLEASE GIVE SPECIFIC DETAILS ON WHAT HAPPENED!! (Do not just say he/she threatened me. State exactly what was said and done).

START WITH THE NEWEST MOST RECENT OCCURENCE.

WRITE IN THE DATE AND LOCATION WHERE THE INCIDENT OCCURRED.

1. Date: 4.7.2014

Location: Lakeshore Family YMCA

What Happened? Jeff verbally assaulted me, shook his finger in my face, yelled at me that I "broke his heart". He frightened me so much I ran away shaking and crying and YMCA staff told him to get out of the gym. Reports attached.

Were the police called? ☒ Yes ☐ No If yes, fill out the Police Response Form.

2. Date: On-going Dec - April

Location: Grosse Pointe Woods

What Happened? Jeff has driven by my house multiple times, followed me to coffee shops and the library I gave me a note saying I destroyed him. Told me google is watching me. Follows me to the gym every week.

Were the police called? ☐ Yes ☐ No If yes, fill out the Police Response Form.

3. Date: Dec 25, 2013

Location: Star Gratiot Theatre

What Happened? Me, my husband and children were at the movies Christmas Day when he arrived and sat 2 rows ahead, directly in front of us.

Were the police called? ☐ Yes ☐ No If yes, fill out the Police Response Form.

Has the Respondent Interfered with your employment? ☐ Yes ☐ No If yes, when: _____

(ATTACH EXTRA SHEETS IF NECESSARY)

VERIFICATION UNDER MCR 2.114(2)(b):

I, the undersigned, declare that the statements above are true to the best of my information, knowledge and belief.

Date

4.10.14


Katharine Barr
Signature of Petitioner

RECEIVED by Michigan Court of Appeals 9/2/2014 1:57:52 PM

RECEIVED by MCOA 9/30/2015 9:43:06 AM

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STATE OF MICHIGAN 3 rd CIRCUIT COURT WAYNE COUNTY	VERIFIED ADDENDUM TO PETITION FOR A PPO	Barr, Katharine Hall, Jeffrey Hon. Docket Judge PPO 	VS 14-103922-PF 04/10/2014
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PETITIONER	Age	RESPONDENT	Age
<u>Katharine Barr</u>	<u>32</u>	<u>Jeffrey Hall</u>	<u>45</u>

What has this person done to make you feel that you need a PPO? Give the date when it occurred, location where the incident occurred, and state what actually happened. PLEASE GIVE SPECIFIC DETAILS ON WHAT HAPPENED!! (Do not just say he/she threatened me. State exactly what was said and done).

START WITH THE NEWEST MOST RECENT OCCURENCE.
WRITE IN THE DATE AND LOCATION WHERE THE INCIDENT OCCURRED.

1. Date: March 13, 2014 Location: Facebook
What Happened? Sent a "love letter" to one of my friends telling her how I am the only one for him. Calls me "my Kate" - letter attached.

Were the police called? ☐ Yes ☐ No If yes, fill out the Police Response Form.

2. Date: Feb, 2014 Location: Lakeshore Family YMCA
What Happened? Jeff joined the gym that I have been a member at for eight years and stays there all morning which means I cannot go work-out.

Were the police called? ☐ Yes ☐ No If yes, fill out the Police Response Form.

3. Date: _____ Location: _____
What Happened? _____

Were the police called? ☐ Yes ☐ No If yes, fill out the Police Response Form.

Has the Respondent interfered with your employment? ☐ Yes ☐ No If yes, when: _____
(ATTACH EXTRA SHEETS IF NECESSARY)

VERIFICATION UNDER MCR 2.114(2)(b):
I, the undersigned, declare that the statements above are true to the best of my information, knowledge and belief.

Date 4-10-14
Katharine Barr
Signature of Petitioner

PLEASE NUMBER.

- Carries a gun; I am terrified for my safety as Jeff appears mentally unstable
- told me Google is watching me and that I'm going to be arrested; He wears a bullet proof vest
- told me he's going to share private photos and videos; several he took of me naked when I was passed out.
- Parks across the street from where I have studied
- Shows up at the gym 10-20 mins after I arrive even when I changed my schedule; I had my car swept for a GPS device but found nothing
- he has inquired about me to YMCA staff.
- Cyber-stalking: he created a facebook account and "liked" several of the interest groups I am a part of then makes posts referencing me; I have since blocked him.
- Has posted to facebook several references about me. Calls me KB.
- Has told YMCA staff he doesn't want a fight with my husband yet he follows him around the gym
- Is telling many people we are dating
- approached me at library; told me I was involved in a sex triangle and that I lied to him.

VERIFICATION UNDER MCR 2.114(2)(b): I declare that the statements above are true to the best of my information, knowledge and belief.

4.10.14

Date

PPO #3 (09/09)

Katharine Barr

Signature of Petitioner

RECEIVED by Michigan Court of Appeals 9/2/2014 1:57:52 PM

RECEIVED by MCOA 9/30/2015 9:43:06 AM

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EXHIBIT B

RECEIVED by MCOA 9/30/2015 9:43:06 AM

MOTION FEE WAIVER

Approved, SCAO

Original - Court
1st copy - Judge/Assignment clerk (green)
2nd copy - Respondent (blue)

3rd copy - Petitioner (pink)
4th copy - Return (yellow)

STATE OF MICHIGAN
JUDICIAL CIRCUIT
COUNTY

MOTION TO
MODIFY, EXTEND, OR TERMINATE
PERSONAL PROTECTION ORDER

Barr, Katharine
Hall, Jeffrey
Hon. Docket Judge PPO

VS

14-103922-PP



04/10/2014

Court address

B Petitioner's name KATHARINE BARR Address and telephone no. where court can reach petitioner 1532 HOLLYWOOD GROSSE POINTE WOODS, MI 48236	Age 32	Respondent's name, address, and telephone no. JEFFREY T. HALL 888 TROMBLEY GROSSE POINTE PARK, MI	Age 45
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MOTION

- C** 1. On 4.10.14 a personal protection order was entered by this court.
- D** 2. ☒ a. I am the respondent. I ask the court to conduct a hearing to ☐ modify ☒ terminate the order.
☐ b. I am the petitioner. I ask the court to conduct a hearing to modify the order.
☐ c. I am the petitioner. I ask the court to ☐ extend ☐ terminate the order.
- Explain why you want the order modified, extended, or terminated. If box a. is checked, the respondent must show good cause if the order was issued after a full hearing or if more than 14 days have passed since the order was issued ex parte (without a hearing).

THE ALLEGATIONS CONTAINED IN MS. BARR'S PETITION ARE FALSE AND DEFAMATORY.

- E** ☐ 3. I have a next friend motioning for me. I certify that the next friend is not disqualified by statute and is an adult.

F 4.17.14
Date

[Signature]
Signature of moving party

Complete this Notice of Hearing only if you checked box 2.a. or 2.b. above.

NOTICE OF HEARING

- G** You are notified that a hearing has been scheduled to modify, extend, or terminate the personal protection order issued in this case.

Judge: PPO DOCKET
 Date: MAY 5/2014
 Time: 9:00 AM
 Location: 1801 WALKER

ADJ
MAY 12, 2014

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

The court can modify, extend, or terminate the order even if you do not attend the hearing. It is important for you to attend.

H _____
Date

Signature of moving party

RECEIVED by Michigan Court of Appeals 9/2/2014 1:57:52 PM

EXHIBIT C

RECEIVED by MCOA 9/30/2015 9:43:06 AM

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

KATHERINE BARR,

File No. 14-103922

Plaintiff,

Vs.

Motion

JEFFREY HALL,

Defendant,

VIDEO PROCEEDINGS TAKEN in the
above-entitled cause, before the HONORABLE CHARLENE M.
ELDER, Judge of the Circuit Court, at 1701 CAYMC,
Detroit, Michigan, on June 11, 2014.

APPEARANCES:

KATHERINE BARR, Plaintiff appearing in Pro Per.

MITCHELL RIBITWER, P26054
Ribitwer & Sabbota, LLP
26862 Woodward Avenue
Unit 200
Royal Oak, Michigan 48067
(248) 543-8000

Appearing on behalf of the Defendant.

* * *

ANNETTE L. SEGUIN, RPR/CSR-2184
Official Court Reporter

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T A B L E O F C O N T E N T S

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June 11, 2014

Detroit, Michigan

9:56 A.M.

* * *

THE COURT: Case Number 14-103922 PP, Barr
versus Hall.

MR. RIBITWER: Ready, your Honor.
Mitchell Ribitwer, P26054, appearing on behalf of
respondent Jeffrey Hall. He's out in the hall, your
Honor.

(Interruption)

THE COURT: I'm open. Whatever's your
comfort zone. Fine by me. Maybe there's more room if
you guys come forward. Who are you representing,
counsel?

MR. RIBITWER: Respondent Hall.

THE COURT: Okay. And you are?

KATHERINE BARR, Plaintiff: I'm Katherine,
petitioner. I'm not -- I'm no lawyer. This is my
husband. Can he be up here with me or no?

THE COURT: He can be up here, but --

KATHERINE BARR, Plaintiff: He'll be
quiet.

THE COURT: -- let me swear you in as a

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witness.

KATHERINE BARR, Plaintiff: Yeah, that's fine. Okay.

THE COURT: I'm going to swear them both in and then I'll hear from you guys, okay.

MR. RIBITWER: Very good, Judge.

THE COURT: May I have you both raise your right hand. Sir, can I have you raise your right hand. State your name for the record.

KATHERINE BARR, Plaintiff: Katherine Barr.

THE COURT: And your name, sir?

JEFFREY HALL, Defendant: Jeffrey Hall.

* * *

K A T H E R I N E B A R R

J E F F R E Y H A L L

having been first duly sworn in and by the Court at 9:57 A.M., was examined and testified upon their oaths as follows:

THE COURT: And do you both swear or affirm any testimony you give today is the truth and nothing but the truth?

KATHERINE BARR, Plaintiff: Yes.

JEFFREY HALL, Defendant: Yes, Judge.

THE COURT: Okay.

1 MR. RIBITWER: Judge, one preliminary
2 motion. Since Mr. Barr's going to be a witness I'd ask
3 that he'd be sequestered.

4 KATHERINE BARR, Plaintiff: He's not going
5 to be a witness.

6 THE COURT: He's not going to? Okay.
7 Let's start with you, Miss Barr. Why do you feel you
8 need this PPO against Mr. Hall and how do you know him?

9 KATHERINE BARR, Plaintiff: Um, Mr. Hall
10 and I had about a year and a half relationship, an
11 affair. I ended it last fall. After I ended it he
12 started following me around the coffee shops, the
13 library, confronted me -- I went to the coffee shop. I
14 left to go to the library. I'm a grad student so I was
15 studying.

16 He followed me there, wrote me a note that
17 said I destroyed him, followed me out, told me Google is
18 watching me, told me he's going to use Share Intimate
19 Videos that we made together so then I ran out of there
20 and said I was going to call the police and I didn't call
21 the police. I don't want to start anything and other
22 things started happening.

23 He started driving by my house. He came
24 to the movie theater on Christmas day and sat two rows in
25 front of me, my husband and our three children. We got

1 up and moved several rows higher.

2 Then he -- I've been a member at our local
3 YMCA for eight years. Then he -- in the spring he joined
4 the YMCA. I was contacted by staff at the YMCA because
5 they said, I just want to bring it to your attention
6 that, a manager, that Mr. Hall came in. Before he got
7 his membership he was asking about your workout schedule
8 and your husband's workout schedule.

9 MR. RIBITWER: Objection. That's all
10 hearsay.

11 KATHERINE BARR, Plaintiff: She asked me
12 to tell my story, so. A few weeks after that -- so I --
13 he started coming -- okay. So I'll just -- a few weeks
14 after that I was on the treadmill and a woman came in.
15 Her name was Corrine Zimmerman and apparently he's dating
16 her and she wanted to ask me if I was dating him and I
17 said, no, no, I'm not.

18 Then he like came in from the lobby and
19 started yelling at me and saying, you broke my heart; you
20 lied to me about your relationship with your husband. He
21 was very loud. He was -- I was scared out of my mind.
22 I've got two witness reports that came forward to give
23 their testimony because I was so upset.

24 I've since left that gym cause I'm afraid
25 to work out there anymore. I was granted a PPO about

1 eight weeks ago. Since that time he still he still has
2 not stayed away. He was following me on Mack Avenue --

3 THE COURT: Oh, you do have a PPO.

4 KATHERINE BARR, Plaintiff: Yes, I have
5 one.

6 THE COURT: I apologize.

7 KATHERINE BARR, Plaintiff: Oh, it's okay.
8 Um, he was following me on Mack Avenue. As soon as he
9 saw that I saw him he -- Mack Avenue is like a road in my
10 town. I was going to get my kids. I mean, he knows my
11 schedule. He quickly turned off when he saw that I saw
12 him. Of course I contacted -- contacted police and wrote
13 a report.

14 A few weeks after that I was at a local
15 fair with my children and he showed up, which I
16 understand it's a public fair, but on two occasions his
17 children came up to me and wanted to talk to me and I
18 don't know if he was trying to bother me or why, but
19 obviously I don't have PPO's against his children, but
20 he's still trying to like be in my space and I don't know
21 if he's trying to rattle me with the kids because I did
22 babysit for them and had a relationship with them, but I
23 just need him to continue to stay away.

24 I am scared of him. He -- again, when he
25 told me Google is watching me and he's going to share my

1 videos I feel like he's trying to get revenge on me and,
2 um, I've done everything I can to stay away from him and
3 I'm just -- when this PPO was granted it was the first
4 time in six months that I felt like I had some personal
5 freedom back and I wasn't scared and felt like I just
6 want to feel safe and I just want him to continue to stay
7 away from me and my children.

8 THE COURT: You feel that you still need
9 your PPO?

10 KATHERINE BARR, Plaintiff: A hundred
11 percent.

12 MR. RIBITWER: Judge, may it please the
13 Court, I believe that the -- excuse me, the PPO was
14 issued ex parte and the respondent Mr. Hall has filed a
15 motion to terminate because the allegations are not true.

16 To hear from the Defendant basically by
17 way of offer of proof I'm indicating as Miss Barr
18 indicated that apparently these two were involved in some
19 intimate sexual relationship having an affair.

20 At some point in time that affair was
21 terminated. Mr. Hall lives in the same neighborhood that
22 Miss Barr lives in so it's not unusual that perhaps their
23 paths might cross.

24 KATHERINE BARR, Plaintiff: I object. We
25 don't even live in the same municipality.

1 THE COURT: Let him -- let him finish.
2 I'll come back to you.

3 KATHERINE BARR, Plaintiff: Okay.

4 MR. RIBITWER: With regard to the YMCA
5 issues, Mr. Hall, in fact, denies that he attempted to
6 harass or to create any issues or problems with Miss
7 Barr.

8 There was one incident which I can confirm
9 by an independent witness who's here that there was a
10 discussion with Miss Barr, Mr. Hall and a third-party
11 regarding some type of relationship between those three
12 parties. Mr. Hall indicates he's never threatened Miss
13 Barr.

14 He's never told her he's going to harm her
15 or hurt her or that he is attempting to interfere with
16 her current relationship with her husband or the
17 children.

18 The fact that he shows up at a movie on
19 Christmas, obviously that's neither here nor there. That
20 could obviously be a coincidence. He's with his
21 children. They walk into a movie theater. Same thing.
22 I believe that their children play baseball together in
23 some type of a baseball league or soccer. I don't know
24 exactly what the sort is, but the kids are involved in
25 the same type of --

1 KATHERINE BARR, Plaintiff: Our kids do
2 not play sports together.

3 COURT OFFICER: Hold on.

4 KATHERINE BARR, Plaintiff: Sorry.

5 MR. RIBITWER: -- so the kids approach
6 Miss Barr who had a relationship with them on a previous
7 occasion as their either caretaker or somehow babysitter.
8 It's not unusual.

9 There's all kinds of allegations in here
10 in the petition which obviously hasn't been brought to
11 you verbally, but talks about the Defendant having a
12 firearm (ph) (inaudible). That's true. He's a certified
13 safety -- strike that. He's a certified personal
14 protection instructor, certified firearms instructor.
15 He's a U.S. Navy -- he was an intelligence officer there.

16 It's a situation where he doesn't want to
17 have any contact with this young lady anymore. He wants
18 to go his own way and be with his family. She can go her
19 way and be with her family. I'm suggesting to your Honor
20 that the allegations in this particular petition for PPO
21 don't rise to the level of having a personal protection
22 order.

23 Mr. Hall denies that he put anything on
24 Facebook which is adversarial to Miss Barr. He denies
25 that he's threatened her. He denies that he took any

1 naked pictures of her when she was passed out.

2 Apparently the only issues there is that
3 there are videos which were consensual between the two
4 parties and Mr. Hall has no intention of disseminating
5 that information or putting it out in the public domain.

6 So we can hear from Mr. Hall. He can be
7 sworn in and he can testify, but the sum and substance
8 what's going on here -- as a matter of fact, apparently
9 in July of 2014 it appears that the parties were going to
10 end their relationship.

11 Approximately a month later it was Miss
12 Barr who contacts the respondent by e-mail talking to him
13 and asking him, you know, how you doing, and, you know,
14 why don't you respond to me, and respond to her, why
15 don't you respond to me, what's going on with you, I'm
16 sorry about what happened. You know, this is really a
17 big mess and so --

18 THE COURT: When was this?

19 MR. RIBITWER: This was in -- the last
20 e-mail was in October of 2013, but the first e-mail was
21 August 13th, of 2013. Apparently their relationship was
22 suppose to be completed on July 25th, of 2014.

23 So Miss Barr did initiate some contact
24 after this so-called relationship was terminated and with
25 regard to these incidents at the YMCA and the movie

1 theater, Mr. Hall denies that there was any type of
2 threats or anything that would harm Miss Barr.

3 THE COURT: Well, it sounds like her
4 biggest concern is that everywhere she winds up or
5 anything she's doing he somehow ends up there, too.

6 KATHERINE BARR, Plaintiff: May I please
7 respond?

8 THE COURT: Sure.

9 KATHERINE BARR, Plaintiff: He said that
10 he wants him -- Mr. Ribitwer speaking on behalf of Mr.
11 Hall said that Jeff wants to move on and that he's not
12 caught up with me anymore. However, he wrote this
13 instant message to one of my best friends, 'Lynn --' and
14 this was just a few months ago. You have a copy of it,
15 too. It should have the day.

16 'Lynn, my heart is broken --' I don't know
17 what this means '-- please don't hurt Kate or me anymore
18 than we have already been hurt. She's the first thing I
19 think of in the morning and the last thing I think of
20 before I go to sleep. She is my final resting spot. No
21 others for me. I have had too much to drink. I will
22 think I will go to sleep now. I am so sad. Please don't
23 hurt my Kate.'

24 He sent this to one of my best friends. I
25 have these witness reports that, um, very clearly

1 indicate what happened at the YMCA that day. I can read
2 them if you'd like me to. 'Furthermore --' excuse me?

3 MR. RIBITWER: (Inaudible). Excuse me.

4 Okay. Okay.

5 KATHERINE BARR, Plaintiff: Okay.

6 Actually I'd like to read one right now.

7 MR. RIBITWER: I'll object.

8 THE COURT: They're hearsay.

9 MR. RIBITWER: I can't cross-examine 'em.

10 KATHERINE BARR, Plaintiff: Oh, I see.

11 Okay. Sure. That's fine. Um, Mr. Hall has a history of
12 lying. Today, for instance -- first of all, I just got
13 these papers to come here today last night at ten P.M.

14 He told the Court and he told his attorney
15 this morning that he hired a processor server to give
16 them to me, but he has no proof of service. In fact, the
17 way I got them was from this envelope with his lawyer's
18 name on it, which I showed to Mr. Ribitwer today.

19 He said he's never seen it before and it
20 did not come from his office. So he started the day off
21 with lies. I have basically had no time to prepare, but
22 I needed to do this today cause I'm going to be out of
23 the country this summer and I have three children that --
24 you know, I just needed to get this done today, but he
25 really jams me here.

1 I mean, like I said, he started this
2 entire day off with lies and as far as me contacting him
3 in July via e-mail, that's because that was the very
4 first time he followed me to the library so we started
5 talking again.

6 MR. RIBITWER: Judge, if I may pose an
7 exhibit. I'll show it to the Plaintiff.

8 KATHERINE BARR, Plaintiff: Yeah, okay.
9 So this was a letter --

10 MR. RIBITWER: Contacting -- contacting --
11 contacted her in July. Here's a letter that Miss Barr
12 wrote for Mr. Hall in July so I don't see where
13 (inaudible).

14 KATHERINE BARR, Plaintiff: There's no
15 relevance. This was before our relationship ended. I
16 mean, that's when we were like in love, quote unquote.

17 THE COURT: Well, I mean, the whole
18 purpose of a PPO is to stop unwanted contact and if she
19 was granted the PPO because a different judge felt that
20 she alleged enough in her facts to be warranted to have a
21 PPO -- I didn't realize that you're here on a termination
22 hearing.

23 My job is to hear through clear and
24 convincing evidence from you that you, in fact, still
25 feel you need this PPO and if the Court is convinced

1 that -- that you feel that you still need this PPO, cause
2 it was already granted. I think they just need a cooling
3 down period, a chance to go their separate ways. That's
4 what it sounds like to me, but --

5 KATHERINE BARR, Plaintiff: That's what I
6 think so, too, and I'm just fearful that without the PPO
7 there's going to be no cooling down period. He won't
8 leave me alone.

9 THE COURT: And that's what I was going to
10 say, that I'm going to keep it in place for now and maybe
11 if they -- you know, just things die down after a few
12 months --

13 KATHERINE BARR, Plaintiff: Thank you.

14 THE COURT: -- you know, you two may
15 consider a termination at that time.

16 KATHERINE BARR, Plaintiff: Thank you.

17 THE COURT: It does put him in a criminal
18 LEIN system so, you know, that's the thing with the PPO
19 and it does prohibit him from having his firearm, but at
20 the same time I'm thinking that if things die down
21 between the two of you, time heals and then maybe you'll
22 go your separate ways and if you come back at another
23 time --

24 MR. RIBITWER: Judge, two things. One,
25 he's running for the state senate, but --

1 KATHERINE BARR, Plaintiff: He's not
2 registered on any --

3 MR. RIBITWER: That may not be here nor
4 there, but the question is, because he is a certified
5 firearms instructor will the Court remove the provision
6 which prohibits him from carrying a firearm, use of a
7 firearm or restricting the use of the firearm so in
8 employment while he's involved in these educational
9 programs? He does derive an income from that and that's
10 part of the income he uses to support his two children.

11 KATHERINE BARR, Plaintiff: Your Honor, I
12 would please ask that you do not allow him to have his
13 guns back. That is one of the biggest provisions for me,
14 for me feeling safe and his -- what appear to be mental
15 instability with the whole Google is watching you thing.

16 I don't know what he's capable of and I'm
17 asking that you please do not do that. Mr. Ribitwer and
18 I differ. Your client is not running for senate and he's
19 not listed on any registry -- okay. He's not listed on
20 any registry. So he's not registered to run for any race
21 in Michigan or federal level at this time. That is not
22 true.

23 MR. RIBITWER: The only other -- the only
24 other issue is if -- along the lines of the Court, if the
25 Court would entertain it, I would have no objection to

1 having a review in sixty or ninety days and see how it
2 goes. If everything goes well obviously (inaudible).

3 KATHERINE BARR, Plaintiff: I, your Honor,
4 I would please like to leave it as is and if they would
5 like to file a motion at a later date then I'll tend to
6 it then, but I would -- I would -- no, I don't agree to
7 that.

8 THE COURT: Okay.

9 JEFFREY HALL, Defendant: You know,
10 this -- this PPO was obtained against me ex parta. The
11 ex parta power of the Court is very powerful because it
12 denies somebody the right to come in and defend
13 themselves. It basically takes somebody else at their
14 word and allows the Court the awesome power of denying
15 somebody the right to be heard to defend themselves.

16 Judge, I've not said one word during this
17 hearing, but I can guarantee -- we have a witness here
18 today. I can guarantee you that if you were to allow me
19 to testify, allow the witness to testify, you would hear
20 a very different story, not only have I not harassed Miss
21 Barr, that if we had independent third-party witnesses
22 testify -- and we don't have just one. We have
23 multiple -- you would see all very disturbing portrait
24 and that would be not only did I not harass Miss Barr, if
25 there was any harassment at all it was Miss Barr

1 harassing me.

2 A perfect example is the movie theater
3 incident. She says -- the way you read the PPO and the
4 way that the judge that was on the PPO docket read it was
5 I was there at the movie theater with my children and my
6 husband. This lunatic comes in and sits down two rows in
7 front of me.

8 Here's what really happened, Judge. What
9 really happened was on Christmas day, as part of a
10 Christmas tradition, I took my little eight year old girl
11 and my eight year old -- my ten year old son to the
12 nearest movie that was -- to the nearest theater that was
13 showing Frozen, okay, and I went in and we started to go
14 into a row and my son started going, dad, dad, it's
15 Deagan. I said, what? He goes, dad, Deagan's here.

16 I look up. About five or six rows back --
17 not two, Judge -- about five or six rows back are Mr. And
18 Mrs. Barr and their children and I'm there with my
19 children as well so here's what I did.

20 I said, son, have a seat, be quiet, watch
21 the movie. Dad, I want to sit with Deagan. Can I sit
22 with Deagan? Son, no, please, you can't sit with Deagan.

23 Judge, when the PPO docket judge heard
24 that and what they probably thought was, oh, my God, this
25 guy's following her around with her kids, but in reality

1 that's a perfect example.

2 Every one of the allegations contained in
3 her complaint are not only misleading -- like I said, if
4 you give us a chance to present witnesses, have them
5 sworn in -- and I'm willing to pay my attorney to do
6 this -- you will see not only that Miss Barr was not
7 harassed, Judge, that unfortunately tragically if anybody
8 was harassed in this process it was me.

9 The last communications -- it's all
10 documented -- came from Miss Barr. I stopped
11 communicating with her, but the e-mails continued to come
12 and this is something that can be established and
13 verified through an evidentiary hearing.

14 KATHERINE BARR, Plaintiff: Everything he
15 just said is lies. We've -- we've been in here for
16 twenty minutes. He's already lied about the process
17 serving and his running for senate. That's two lies that
18 you've already heard today.

19 Honestly, I just -- I don't even know what
20 to say. Everything I've said -- I don't even see some of
21 my best friends as much as I've seen him following me in
22 the last seven months. Please, I'd ask you if we can
23 stick with -- keeping this as is, as it was granted and
24 that's what I ask.

25 MR. RIBITWER: Judge, in response to Miss

1 Barr -- I can show this to the Judge?

2 KATHERINE BARR, Plaintiff: Ah, sure.

3 Sure. Okay. So this appears that --

4 MR. RIBITWER: Judge --

5 KATHERINE BARR, Plaintiff: -- he's
6 compiled signatures, but he's on no campaign registry.

7 THE COURT: Those are petitions, right?

8 JEFFREY HALL, Defendant: That's correct.
9 I have until July 17 to submit fifteen hundred signatures
10 about a thousand of which have already been garnered.
11 It's district number two, Judge, for the state senate.

12 KATHERINE BARR, Plaintiff: I please just
13 ask you to keep this as is.

14 THE COURT: I already had ruled, guys. I
15 don't go back. You know, I don't like to go back on my
16 rulings. I had ruled.

17 KATHERINE BARR, Plaintiff: Thank you.

18 THE COURT: Where we were at was he was
19 asking me to set it for -- you know, adjourn it down the
20 line. I'm not going to do that. I suggest some time in
21 October if things have died down if he wants to come back
22 and re-file he can do so at that time. That'll be six
23 months the PPO's been in effect.

24 Usually it takes people about six months
25 to accept the situation and move forward so maybe you'll

1 be more inclined to let it go at that time. For now I'm
2 going to just keep it in place.

3 KATHERINE BARR, Plaintiff: Thank you.

4 THE COURT: Judge Cox obviously felt that
5 there was a very good reason to issue this PPO ex parte
6 and clearly she is concerned about the terms of the
7 relationship so I'm not going to deny it at this time.

8 MR. RIBITWER: Judge, will you -- will you
9 modify the provision regarding the purchase or possession
10 of a firearm?

11 THE COURT: I'm going to leave the firearm
12 provision alone for now and then I will tell you that if
13 he wants to re-file it the Court will entertain it when
14 he comes back.

15 MR. RIBITWER: Very good, Judge. Thank
16 you for your consideration.

17 THE COURT: All right.

18 KATHERINE BARR, Plaintiff: Thank you,
19 very much.

20 COURT OFFICER: Have a seat and you'll get
21 your paperwork.

22 KATHERINE BARR, Plaintiff: All right.

23 (10:18 A.M. proceedings concluded)

24 * * *

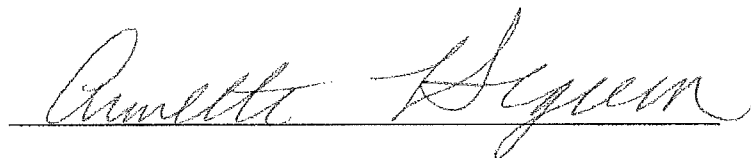
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C E R T I F I C A T E

STATE OF MICHIGAN) SS
COUNTY OF WAYNE)

I, Annette L. Seguin, Certified Shorthand
Reporter-2184, do hereby certify that the forgoing pages,
1 through 22, inclusive, comprise a full, true and
correct VIDEO transcript to the best of my ability, of
the proceedings in the matter of Katherine Barr Vs.
Jeffrey Hall, taken on June 11, 2014.



ANNETTE L. SEGUIN, RPR/CSR-2184

Official Court Reporter

DATED: August 20, 2014

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EXHIBIT D

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Approved, SCAO

STATE OF MICHIGAN
JUDICIAL CIRCUIT
COUNTY

ORDER ON MOTION TO
MODIFY, EXTEND, OR TERMINATE
PERSONAL PROTECTION ORDER

Barr, Katharine
Hall, Jeffrey
Hon. Docket Judge PPO

vs

14-103922-PP



04/10/2014

Court address

ORI MI. 820025J 2 Woodward Ave., Coleman A. Young Municipal Center, Courtroom 1801, Detroit, MI 48226 (313) 224-0120

Petitioner's name

Address and telephone no. where court can reach petitioner

v

Respondent's name, address, and telephone no.

Date: Judge: Bar no.

☐ 1. This order is entered after hearing.

THE COURT FINDS:

2. A motion was filed to

- ☐ a. modify the personal protection order dated
☐ b. extend the expiration date of the personal protection order dated
☐ c. terminate the personal protection order dated

3. ☐ a. Circumstances continue to exist that would require extension/modification of the order.
☐ b. Circumstances do not exist that would require extension/modification of the order.
☐ c. Circumstances do not exist that would require continuation of the term of the order.

IT IS ORDERED:

☐ 4. The motion to modify the personal protection order is granted in ☐ full. ☐ part. An amended personal protection order shall be issued.

☐ 5. The personal protection order is extended from _____ to _____
Current expiration date New expiration date

The court clerk shall file this order with _____
Name of law enforcement agency

who shall enter the new expiration date in the LEIN system. The conditions of the existing personal protection order are continued except as to the new expiration date.

☐ 6. The motion to terminate the personal protection order is granted. The court clerk shall complete and file the Removal of Entry from LEIN (form MC 239) with the law enforcement agency named in the last order.

☐ 7. The motion to modify, extend, or terminate the personal protection order is denied and the existing personal protection order will expire on the date of that order.

☐ 8. This order is effective when signed

TRUE COPY
CATHY M. GARRETT
WAYNE COUNTY CLERK
DEPUTY CLERK

Date Judge

CERTIFICATE OF MAILING

CHARLENE M ELDER

Instruction to moving party: You must mail this order to the other party, date and sign below, and file a copy of this certificate of mailing with the court clerk as soon as possible.

I certify that on this date I served a copy of this order on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined in MCR 2.107(C)(3).

Date Moving party

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EXHIBIT E

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Not Reported in N.W.2d, 2010 WL 292991 (Mich.App.)
(Cite as: 2010 WL 292991 (Mich.App.))



Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK COURT
RULES BEFORE CITING.

UNPUBLISHED

Court of Appeals of Michigan.
Tammy Ynette BAKER, Petitioner-Appellee,
v.
Theresa HOLLOWAY, Respondent-Appellant.

Docket No. 288606.
Jan. 26, 2010.

West KeySummary**Protection of Endangered Per-
sons 315P** **53**

315P Protection of Endangered Persons
315PII Security or Order for Peace or Protection
315PII(C) Proceedings
315Pk51 Plenary Proceedings in General
315Pk53 k. Alternative resolution and
settlement. Most Cited Cases

Protection of Endangered Persons 315P **57**

315P Protection of Endangered Persons
315PII Security or Order for Peace or Protection
315PII(C) Proceedings
315Pk51 Plenary Proceedings in General
315Pk57 k. Hearing and determination.
Most Cited Cases

The trial court erred by imposing mediation as a condition to having a hearing on the merits of an ex parte personal protection order (PPO). During the hearing on the respondent's motion to terminate the PPO, the hearing referee sought the respondent's consent to mediation and the respondent was not allowed to present her defense. Because the trial court effectively denied the respondent of her statutory right to a prompt and timely review of the PPO, the matter was remanded for an evidentiary hearing to determine whether the PPO should have

been terminated.

Kent Circuit Court; LC No. 08-007173-PH.

Before: MURPHY, C.J., and JANSEN and ZAHRA
, JJ.

PER CURIAM.

*1 Respondent, acting in propria persona, appeals as of right the trial court's order denying her motion to terminate petitioner's ex parte personal protection order (PPO). In lieu of receiving a hearing on the merits of whether the PPO should have been terminated, respondent was ordered to mediate her dispute with petitioner. On appeal, respondent claims the circuit court reversibly erred by requiring her to enter mediation because she was entitled to a prompt hearing on the merits of the PPO. We hold that mediation may not be imposed as a condition to having a hearing on the merits of a PPO. We vacate the order denying respondent's motion to terminate the PPO and remand for an evidentiary hearing to determine whether the PPO should be terminated.

I. Basic Facts and Procedure

The parties have been neighbors for decades. In July 2008, petitioner was granted an ex parte PPO, based in part on her allegation that respondent threatened to harm her with a gun. Respondent alleged that petitioner lied, timely objected to the issuance of the PPO and invoked her statutory right to a hearing on the merits. MCL 2950a (11). The matter came to a hearing before a referee on August 12, 2008. The referee began by inviting petitioner to state why she thought the PPO should remain in place. Petitioner said that respondent was "going around her neighborhood talking about me, you know, trying to get other people mad at me, it is childish. It needs to stop today." Thereafter, the referee noted that the parties should be able to figure out how to get along. The referee without hearing from respondent informed the litigants that he

Not Reported in N.W.2d, 2010 WL 292991 (Mich.App.)
(Cite as: 2010 WL 292991 (Mich.App.))

wanted them to mediate their dispute:

Referee: [Respondent,] I don't mean to not hear from you this morning; but the two of you are going to continue to reside in your homes for a long period of time and you are going to have to find a way to mutually co-exist peacefully in your neighborhood with one another....

What ... I would like to do is send you to the Dispute Resolution Center. It is free, it is mediation, you meet with a mediator, [and] you reach an agreement between yourselves. You sign a contract of how you are going to peacefully coexist. I have sent multiple PPOs to the Dispute Resolution Center, all but one have come back with an agreement. I am confident that two mature women will be able to sit down and talk with a trained mediator and reach an agreement.

The referee asked respondent how she felt about mediation, and the following exchange occurred:

Respondent: I am fine with it. But, your honor, my thing is I don't talk to her ... so therefore, there is not a problem. All I need for her to do is stay out of my business.

Referee: Well, you know, take that up with the mediator. And run that by the mediator and if you two can, you know, agree to do that and abide by those terms, you guys will get along just fine.

Thereafter, the referee brought the hearing to a close:

*2 Referee: [Respondent,] the PPO is still technically in place until we get a signed mediation agreement.

Respondent: Is there a way that we can resolve this today though, your honor?

Referee: I am not going to do that.

* * *

Respondent: I wish you would have let me talk, sir. You have no idea what I have to deal with.

The parties did not mediate. Respondent immediately filed a motion seeking de novo review by the circuit court of the referee's decision. Respondent stated that the PPO should not have been issued because petitioner's allegations were false.

Respondent's motion for review of the referee's decision was heard on August 29, 2008. The circuit court refused to rule on the merits of the PPO. The circuit court observed that the litigants had been ordered to mediate and they had not done so. Respondent asserted that she was objecting to being ordered to mediate, to which the circuit court replied, "[y]ou're going to mediation." Respondent refused to mediate, indicating, there was "nothing to mediate." The circuit court replied, "Okay, fine. Then the PPO stays in force."

II. Analysis

A PPO is an injunctive order. MCL 600.2950a (29)(c). The grant of an injunctive order "is within the sound discretion of the trial court and will not be reversed on appeal absent an abuse of discretion." *Pickering v. Pickering*, 253 Mich.App. 694, 700, 659 N.W.2d 649 (2002). An abuse of discretion occurs when the trial court's decision results in an outcome falling outside the principled range of outcomes. *Radeljak v. DaimlerChrysler Corp.*, 475 Mich. 598, 603, 719 N.W.2d 40 (2006).

When seeking an ex parte PPO, the petitioner must show "specific facts shown by verified complaint, written motion, or affidavit that immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will precipitate adverse action before a personal protection order can be issued." MCL 600.2950a(9); see also MCR 3.703(G) and MCR 3.705(A)(2). Here, the allegations sworn by petitioner were sufficient for the ex parte PPO to issue. According to the affidavit, respondent had threatened petitioner with a gun.

Not Reported in N.W.2d, 2010 WL 292991 (Mich.App.)
(Cite as: 2010 WL 292991 (Mich.App.))

However, within 14 days of being served with the PPO, respondent timely filed a motion to terminate the PPO, as it was her right to do. MCL 600.2950a(10). When such a motion is filed, the circuit court must schedule and conduct a hearing on the merits of the PPO. MCL 600.2950a(11); MCR 3.707(A)(2). “[T]he burden of justifying continuation of a PPO granted ex parte is on the applicant for the restraining order.” *Pickering*, *supra* at 699, 659 N.W.2d 649, citing MCR 3.310(B)(5).

Here, while a hearing was held on respondent's motion to terminate the PPO, respondent correctly points out that the hearing referee did not hear her defense. We note that prior to ordering mediation, the hearing referee arguably sought respondent's consent to mediation. Thus, we must determine whether the referee solicited and obtained a valid waiver from respondent of her statutory right to a hearing on the merits of the PPO. We conclude that the hearing referee did not obtain from respondent a valid waiver of her right to a hearing on the merits of the PPO. The hearing referee failed to inform respondent, who was without legal counsel, that the PPO would remain in effect during the mediation process. It is clear from the record that respondent objected to mediation upon learning that the PPO would remain in effect pending mediation. By immediately filing a motion for review of the order of the referee, it is clear that respondent did not intend to acquiesce the continuance of the PPO while mediation was pending. Significantly, the circuit court, on review of the referee's order, did not conclude that respondent waived her right to a hearing on the merits. Instead, it appears the circuit court concluded that court ordered mediation is reason enough not to rule on the merits of the PPO.

*3 Having concluded that respondent did not waive her right to a hearing on the merits of the PPO, we must next determine whether anything presented to the hearing referee or the circuit court would support the continuance of the PPO. On the record before this Court there exists nothing that would justify the continuance of the PPO. Rather

than hearing and deciding whether the PPO was properly issued, the referee cut short the proofs presented by petitioner, declined to take proofs from respondent and entered an order requiring mediation. The circuit court upheld that order, declining to address the merits of the PPO until mediation had been attempted.

The procedure applicable to PPO hearings is governed by MCR 3.707(A)(2), which provides in pertinent part that “[t]he court *must schedule and hold a hearing* on a motion to modify or terminate a personal protection order within 14 days of the filing of the motion ...” (emphasis added). Implicit in the court rule and the PPO statute is the notion that the court will promptly determine whether the PPO was properly issued. Based on the proofs presented, a court may continue, modify or terminate the PPO. However, a court may not set a matter for hearing only to notify the litigants that they must submit their dispute to mediation.

Here, by requiring mediation and keeping the PPO in place, the trial court effectively denied respondent her statutory right to a prompt and timely review of the PPO. This amounted to an abuse of discretion. We recognize that “[f]ailure of a party or the party's attorney or other representative to attend a scheduled ADR proceeding, as directed by the court, *may* constitute a default to which MCR 2.603 is applicable or a ground for dismissal under MCR 2.504(B).” MCR 2.410(D)(3)(a) (emphasis added). However, most instances where ADR is attempted or appropriate do not occur in cases where there exists a specific right to a prompt hearing on the merits of the dispute. Further, we note that court imposed ADR will rarely be suitable in PPO cases, where domestic violence or stalking is alleged to have occurred. Accordingly, we vacate the order denying respondent's motion to rescind the PPO and we remand for an evidentiary hearing to determine whether the PPO should be terminated.

Vacated and remanded. We do not retain jurisdiction.

Mich.App.,2010.
Baker v. Holloway
Not Reported in N.W.2d, 2010 WL 292991
(Mich.App.)

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EXHIBIT F

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Not Reported in N.W.2d, 2001 WL 1545927 (Mich.App.)
(Cite as: 2001 WL 1545927 (Mich.App.))

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK COURT
RULES BEFORE CITING.

Court of Appeals of Michigan.
Jody Lynn COOLMAN, Petitioner-Appellee,
v.
Brad LAISURE, Respondent-Appellant.

No. 224050.
Nov. 30, 2001.

Before: CAVANAGH, P.J., and DOCTOROFF and
JANSEN, JJ.

PER CURIAM.

*1 Respondent Brad Laisure appeals as of right from the circuit court order that denied his motion to terminate a personal protection order (PPO) that the court granted ex parte to petitioner Jody Lynn Coolman under M.C.L. § 600.2950a. We affirm in part and reverse in part.

As a preliminary matter, we must determine whether this appeal is moot given that the expiration date on the PPO, as modified, was February 1, 2000. An issue is moot if an event occurs that renders it impossible for the court, if it should decide in favor of the party, to grant relief. *City of Jackson v. Thompson-McCully Co, LLC*, 239 Mich.App 482, 493; 608 NW2d 531 (2000). Here, although the PPO has expired, the PPO remains entered in the law enforcement information network (LEIN). See M.C.L. § 600.2950a(7) & (14). There is no provision in the statute for removal of a PPO from the LEIN upon the order's expiration date. However, if this Court determined that the PPO was improper in some manner, respondent could seek entry on the LEIN of an order rescinding, terminating, or modifying the PPO. See M.C.L. § 600.2950a(16) & (17). Accordingly, because it is

not impossible for this Court to grant some measure of relief in this case, the appeal is not moot.

Turning to the merits of respondent's appeal, he argues that the circuit court erred in granting the ex parte PPO and in denying his motion to terminate the order. A PPO is statutorily defined as an "injunctive order." MCL 600.2950a(29)(b). The granting of injunctive relief is within the sound discretion of the trial court, although the decision must not be arbitrary and must be based on the facts of the particular case. *Int'l Union v. State*, 231 Mich.App 549, 551; 587 NW2d 821 (1998). The trial court's findings of fact are reviewed for clear error. *Id.*; MCR 2.613(C).

MCL 600.2950a ^{FN1}, which provides for a PPO in a non-domestic stalking context, states, in pertinent part:

FN1. Since the lower court action in this case, M.C.L. § 600.2950a was amended by 1999 PA 268, effective July 1, 2000. Relevant to this case, the following was inserted after the first sentence in section 1: "Relief shall not be granted unless the petition alleges facts that constitute stalking as defined in section 411h or 411i of the Michigan penal code, 1931 PA 328, M.C.L. § 750.411h and 750.411i."

(1) Except as provided in subsections (25) and (26), ... an individual may petition the family division of circuit court to enter a personal protection order to restrain or enjoin an individual from engaging in conduct that is prohibited under section 411h or 411i of the Michigan penal code, 1931 PA 328, M.C.L. § 750.411h and 750.411i. Relief may be sought and granted under this section whether or not the individual to be restrained or enjoined has been charged or convicted under section 411h or 411i of the Michigan penal code, 1931 PA 328, M.C.L. § 750.411h and 750.411i for the alleged violation.

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(Cite as: 2001 WL 1545927 (Mich.App.))

(9) An ex parte personal protection order shall not be issued and effective without written or oral notice to the individual enjoined or his or her attorney unless it clearly appears from specific facts shown by verified complaint, written motion, or affidavit that immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before a personal protection order can be issued.

*2 In this case, petitioner alleged in her petition that she repeatedly told respondent that their relationship was over, and that, at a bar on October 2, he grabbed her arm, swung her around, and attempted to drag her out the door. Based on these allegations, we conclude that the circuit court did not clearly err in finding that petitioner was subject to "immediate and irreparable injury, loss, or damage" on the date the PPO was issued, or that notice of the petition would "precipitate adverse action." MCL 600.2950a(9); *Kampf v. Kampf*, 237 Mich.App 377, 384; 603 NW2d 295 (1999). Therefore, the court did not abuse its discretion in granting the ex parte PPO.

However, following the November 1 hearing on respondent's motion to terminate the PPO, the circuit court clearly erred in finding that respondent "stalked" petitioner. "Stalking" is defined as

a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested. [MCL 750.411h(1)(d) (emphasis added).]

The statute defines "course of conduct" as "a pattern of conduct composed of a series of 2 or more separate noncontinuous acts evidencing a continuity of purpose," M.C.L. § 750.411h(1)(a), and "harassment" as

conduct directed toward a victim that includes,

but is not limited to, repeated or continuing unconsented contact that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose. [MCL 750.411h(1)(c).]

Based on the testimony of the parties at the hearing, there was no clear evidence of a "willful course of conduct" composed of 2 or more "separate noncontinuous acts evidencing a continuity of purpose." The repeated phone calls and other non-physical contacts prior to September 30 appear to have been attempts by respondent to find out why petitioner had broken off the relationship and to possibly repair the relationship. The evidence demonstrated that petitioner did not feel terrorized or harassed as a result of this series of contacts. The October 2 incident at the bar was the basis for petitioner's fear of respondent and for seeking the PPO. However, the bar incident did not involve the same "continuity of purpose" as the prior contacts. Moreover, there is no dispute that, other than the October 2 bar incident, respondent made no attempt to contact petitioner between the parties' telephone call on September 30, when petitioner clearly informed respondent that the relationship was over, and November 1, when the hearing on respondent's motion was heard.

We conclude that the court clearly erred in finding that respondent's conduct rose to the level of stalking as statutorily defined. Thus, the circuit court abused its discretion in denying respondent's motion to terminate the PPO. The circuit court's decision to grant the ex parte PPO on October 4, 1999 is affirmed, but the court's decision to continue the order after November 1, 1999, is reversed.

*3 Affirmed in part, reversed in part. Respondent may tax costs pursuant to MCR 7.219.

Mich.App.,2001.
Coolman v. Laisure

Not Reported in N.W.2d, 2001 WL 1545927 (Mich.App.)
(Cite as: 2001 WL 1545927 (Mich.App.))

Not Reported in N.W.2d, 2001 WL 1545927
(Mich.App.)

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EXHIBIT G

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Not Reported in N.W.2d, 2010 WL 395762 (Mich.App.)
(Cite as: 2010 WL 395762 (Mich.App.))

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK COURT
RULES BEFORE CITING.

UNPUBLISHED

Court of Appeals of Michigan.
Heidi Elizabeth LIPSCOMBE, Petitioner-Appellee,
v.
William C. LIPSCOMBE, Sr., Respondent-Appel-
lant.

Docket No. 287822.
Feb. 4, 2010.

West KeySummary**Protection of Endangered Per-
sons 315P**  **40**

315P Protection of Endangered Persons
315PII Security or Order for Peace or Protection
315PII(B) Grounds in General
315Pk40 k. Grounds and Considerations
in General. Most Cited Cases

Protection of Endangered Persons 315P  **57**

315P Protection of Endangered Persons
315PII Security or Order for Peace or Protection
315PII(C) Proceedings
315Pk51 Plenary Proceedings in General
315Pk57 k. Hearing and Determina-
tion. Most Cited Cases

The trial court erred when it entered the modi-
fied personal protection order for the wife against
the husband. The trial court found that the alleged
incidents the wife made against the husband were
“pretty commonplace” and “normal” for couples
who were experiencing marital difficulties. Addi-
tionally the court found that there had been no as-
saults and that neither the wife nor the children
were in any danger. M.C.L.A. § 600.2950.

Ottawa Circuit Court; LC No. 08-061386-PP.

Before: BECKERING, P.J., and MARKEY and
BORRELLO, JJ.

PER CURIAM.

*1 Following a hearing, respondent's motion to
terminate the ex parte personal protection order
(PPO) against him was denied and a modified PPO
issued. Respondent appeals as of right, and for the
reasons set forth in this opinion, we reverse the trial
court's decision to grant the PPO and accordingly
we vacate the issuance of the PPO. Additionally,
we remand this matter to the trial court for a new
order to update and remove reference to the PPO
from the law enforcement information network
(LEIN). This appeal has been decided without oral
argument pursuant to MCR 7.214(E).

While filing divorce proceedings against re-
spondent, petitioner sought an ex parte PPO against
respondent. Petitioner was granted an ex parte PPO
against respondent on May 8, 2008, which provided
for the couple's children as well as petitioner. Re-
spondent was served the next day and filed a timely
motion to rescind. An evidentiary hearing was held,
and both parties testified. The trial court found the
incidents alleged by petitioner to be normal for
couples experiencing marital difficulties. It found
there had been no assaults and that neither peti-
tioner nor her children were in danger from respondent.
The court indicated that petitioner's fears were
based on her perception, rather than reality. Spe-
cifically, the trial court stated:

I didn't hear anything that says that [petitioner] is
in imminent danger, I think clearly she feels that
way and that's important ... to deal with that. I
think what we need to do is a modified [PPO]
that will provide the comfort [petitioner]'s look-
ing for as far as her personal safety is concerned.
And it basically isn't going to order [respondent]
to not to [sic] anything he isn't supposed to not do
anyway.

Not Reported in N.W.2d, 2010 WL 395762 (Mich.App.)
(Cite as: 2010 WL 395762 (Mich.App.))

Despite not finding legal grounds for the issuance of a PPO, the trial court ordered a modified PPO anyway, reasoning that the order did not prohibit respondent from committing any acts not already prohibited by law.

On appeal, respondent argues that the trial court erred by failing to terminate the PPO against him. We review a trial court's denial of a motion to rescind an ex parte PPO for abuse of discretion. *Pickering v. Pickering*, 253 Mich.App. 694, 700-701, 659 N.W.2d 649 (2002). A trial court acts within its discretion when its decision results in an outcome within the range of principled outcomes. *Maldonado v. Ford Motor Co.*, 476 Mich. 372, 388, 719 N.W.2d 809 (2006).

A trial court is normally afforded great deference when addressing issues of witness credibility. MCR 2.613(C); *In re Clark Estate*, 237 Mich.App. 387, 395-396, 603 N.W.2d 290 (1999). Although the trial court found that petitioner believed her concerns were real, it also found that her concerns were unfounded. Therefore, the issue presented on appeal is not one of deference to the trial court on a matter of witness credibility, but rather whether the court erred when it continued the PPO despite petitioner's failure to overcome her burden of persuasion. The court's statements on the record indicate petitioner did not meet that burden, and accordingly, the trial court erred when it entered a PPO against respondent.

*2 Initially, we note that while the PPO on which this appeal is based expired on May 8, 2009, the issue is not moot. An issue on appeal is moot when it becomes impossible for the court to grant the relief sought. *City of Warren v. Detroit*, 261 Mich.App. 165, 166 n. 1, 680 N.W.2d 57 (2004). However, "a question may not be moot if it will continue to have collateral legal consequences." *Mead v. Batchlor*, 435 Mich. 480, 486, 460 N.W.2d 493 (1990). This Court has held that an appeal from an expired PPO is justiciable where retention of a respondent's record on the LEIN poses future negative consequences. *Hayford v. Hayford*, 279

Mich.App. 324, 325, 760 N.W.2d 503 (2008).

In cases of wrongful criminal convictions, adverse collateral consequences are presumed. *Spencer v. Kemna*, 523 U.S. 1, 118 S.Ct. 978, 140 L.Ed.2d 43 (1998); *Sibron v. New York*, 392 U.S. 40, 55-56, 88 S.Ct. 1889, 20 L.Ed.2d 917 (1968). One adverse collateral consequence recognized in the criminal context is the right to engage in certain businesses. *Spencer*, 523 U.S. at 8. A PPO is not a criminal conviction, but may have criminal implications for individuals pursuing occupations that require a criminal background check or the carrying of a weapon. When a PPO issues, it is automatically entered into the LEIN, but there is no statutory provision to address removal from the LEIN upon its natural expiration. See MCL 600.2950a(17). Therefore, a wrongfully issued PPO could have collateral consequences for an individual well after the PPO has expired.

Respondent indicated that he has been seeking federal employment since he retired from the Coast Guard. Although the modified PPO did not specifically prohibit respondent from purchasing or possessing a firearm, he could have difficulty obtaining security clearances or passing a criminal background check required for certain law enforcement positions or other government employment because it would not be unreasonable for potential employers to presume a violent tendency on the part of respondent because of the issuance of the PPO. Because respondent has sufficiently demonstrated the potential for future adverse consequences to employment in his chosen field, this Court is not without a remedy to provide the requested relief. Consequently, this appeal is not moot.

MCL 600.2950 sets forth the criteria under which a trial court may issue a PPO. Under MCL 600.2950(4), the trial court is required to issue a PPO if it determines that "there is reasonable cause to believe that the individual to be restrained or enjoined may commit 1 or more of the acts listed in subsection (1)." The acts listed in subsection 1 in-

Not Reported in N.W.2d, 2010 WL 395762 (Mich.App.)
(Cite as: 2010 WL 395762 (Mich.App.))

clude “any other specific act or conduct that imposes upon or interferes with personal liberty or that causes a reasonable apprehension of violence.” MCL 600.2950(1)(j). In determining whether good cause exists, the trial court is required to consider “testimony, documents, or other evidence” and “whether the individual to be restrained ... has previously committed or threatened to commit 1 or more of the acts listed in subsection (1).” MCL 600.2950(4)(a) and (b). “The burden of proof in obtaining the PPO, as well as the burden of justifying continuance of the order, is on the applicant for the restraining order.” *Pickering*, 253 Mich.App. at 701, 659 N.W.2d 649.

(Mich.App.)

END OF DOCUMENT

*3 In this case, the trial court found that the alleged incidents petitioner made against respondent were “pretty commonplace” and “normal” for couples who were experiencing marital difficulties. The trial court then found that the testimony did not indicate a requirement for issuing “a whole lot of these orders,” and further found there had been no assaults and that neither petitioner nor the boys were in danger. Review of the record indicates that the trial court never stated a basis under MCL 600.2950 for the issuance of a PPO. Rather, as previously indicated, the trial court issued the PPO as a means to “provide the comfort [petitioner was] looking for as far as her personal safety is concerned.” Absent a legally justified rationale for the issuance of a PPO, the trial court's decision to issue the PPO constituted an abuse of discretion as it was outside the range of principled outcomes. *Maldonado*, 476 Mich. at 388, 719 N.W.2d 809. Having found that the trial court erred by entering the modified PPO, we vacate the PPO and remand this matter to the trial court for a new order to update and remove reference to the PPO from the LEIN. We do not retain jurisdiction.

Respondent, being the prevailing party, may tax costs pursuant to MCR 7.219.

Mich.App.,2010.
Lipscombe v. Lipscombe
Not Reported in N.W.2d, 2010 WL 395762

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EXHIBIT H

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Approved, SCAO

STATE OF MICHIGAN
THIRD JUDICIAL CIRCUIT
WAYNE COUNTY

MOTION AND ORDER TO SHOW CAUSE
FOR VIOLATING VALID PERSONAL
FOREIGN PROTECTION ORDER

Barr, Katharine
Hall, Jeffrey
Hon. Docket Judge PPO

14-103922



04/10/14

Court address

ORI MI. 820025J, 2 Woodward Ave., Coleman A. Young Municipal Center, Courtroom 1801, Detroit, MI 48226

Court telephone

313-224-0122

(B)

Petitioner's name

Katharine Barr

Address and telephone no. where court can reach petitioner

1532 Hollywood Ave. 313 326 7082
Grosse Pointe Woods, MI 48236

Respondent's name, address, and telephone no.

Jeffrey Thomas Hall
888 Trombley
Grosse Pointe Park, MI

Date of birth, if known

AFFIDAVIT AND MOTION

(C)

1. I am the protected party in a valid personal/foreign protection order dated 04/10/2014 and

issued by the 3rd Circuit Court, case number 14-103922-PP.
Attached is a copy of that order and either proof of service on or notification to the respondent of that order.

(D)

2. The respondent has violated the order by doing the following:
Explain what has happened and include dates, times, and events (attach any supporting documents, such as a complaint filed with the police).

See attached.

3. I request the court to order the respondent to appear at a specified time to answer a contempt charge or to issue a bench warrant for the arrest of the respondent.

4. This affidavit is made on my personal knowledge and, if sworn as a witness, I can testify competently to the facts in this affidavit.

(E)

Signature

Katharine Barr

Subscribed and sworn to before me on

8-22-2014

Date

Wayne

County, Michigan

My commission expires:

11-13-2020

Date

Signature:

[Signature]

Notary public, State of Michigan, County of

Wayne

ORDER

IT IS ORDERED:

☒ 5. The respondent is ordered to appear before this court on 04. 9, 2014 at 9 AM
☐ the court address above
at ☒ courtroom number 1801

to show cause why the respondent should not be held in contempt for violating a valid personal/foreign protection order. Failure to appear for this contempt hearing may result in a bench warrant being issued for the respondent's arrest. The petitioner shall serve this motion and order on the respondent at least 7 days before the hearing date.

☐ 6. A bench warrant shall be issued for the respondent's arrest to answer a contempt charge for violating a valid personal/foreign protection order.

8/22/2014
Date

CATHY M. GARRETT
WAYNE COUNTY CLERK

Judge

[Signature]

Bar

If you require special accommodations to use the court because of disabilities, or if you require a foreign language interpreter help you fully participate in court proceedings, please contact the court immediately to make arrangements. MCR 3.70

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PROOF OF SERVICE

**Motion and Order to Show Cause
for Violating Personal Protection Order**
Case No. _____

TO PROCESS SERVER: You must serve the copies of the motion and order to show cause for violating a valid personal/foreign protection order and file proof of service with the court clerk. If you are unable to complete service, you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE

☐ **OFFICER CERTIFICATE**

OR

☐ **AFFIDAVIT OF PROCESS SERVER**

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: (notarization not required).

Being first duly sworn, I state that I am a legally competent adult who is **not** a party or an officer of a corporate party, and that: (notarization required)

☐ I served a copy of the motion and order to show cause for violating a valid personal/foreign protection order by personal service on:

Respondent's name	Complete address of service	Day, date, time
-------------------	-----------------------------	-----------------

I have personally attempted to serve a copy of the motion and order to show cause for violating a valid personal/foreign protection order on the following respondent and have been unable to complete service.

Respondent's name	Complete address of service
-------------------	-----------------------------

I declare that the statements above are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Fee	TOTAL FEE	Signature
Incorrect address fee	Miles traveled	Fee		
				Name (type or print)
				Title

Subscribed and sworn to before me on _____ Date _____ County, Michigan.

My commission expires: _____ Date _____ Signature: _____ Deputy court clerk/Notary public

Notary public, State of Michigan; County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received a copy of the motion and order to show cause for violating a valid personal/foreign protection order on _____

Day, date, time _____
Signature of respondent _____

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PETITIONER

RESPONDENT

Katharine Lee Barr v. Jeffrey Thomas Hall

How has the Respondent violated the Personal Protection Order? Give the date and time when it occurred, the location where it occurred, and what actually happened. **PLEASE BE SPECIFIC IN WHAT HAPPENED!** (i.e. Do not just say he/she threatened me, state exactly what was said).

START WITH THE NEWEST AND WORK BACKWARDS.

WRITE IN THE DATE, TIME AND PLACE WHERE THE INCIDENT OCCURRED.

1. Date & Time: 4-29-14 @ 3:25 Location: Grosse Pointe Woods
What Happened? Was driving down Mack Ave on my way to pick up my kids from school. (They get out of school at 3:38.) I ended a phone call and looked up to see J.H.'s car (CPP 1080) in the lane next to me about one car ahead. As soon as I looked up he quickly sped up and veered off the road.
Were the police called? ☐ Yes ☐ No If yes, police report #: 140004790

2. Date & Time: July 11th approx 6:30 Location: Grosse Pointe Woods
What Happened? Even though his son was not playing in the game, J.H. attended my son's baseball game. At one point he began walking directly towards me, passing right behind me even though there was no place to walk to except Woods behind me. This is approaching
Were the police called? ☐ Yes ☐ No If yes, police report #: 140005827

(ATTACH EXTRA SHEETS IF NECESSARY)

Has the original Personal Protection Order been served to the Respondent? ☒ Yes ☐ No
If yes, when: _____

Attach a copy of the:

1. Personal Protection Order
2. Petition
3. Verified Addendum to Petition, and
4. Proof of Service

VERIFICATION UNDER MCR 2.114(2)(b): I declare that the statements above are true to the best of my information, knowledge and belief.

8-22-2014

Date

Katharine Barr
Signature of Petitioner



PETITIONER

RESPONDENT

Lee
Katharine Barr v. Jeffrey Thomas Hall

How has the Respondent violated the Personal Protection Order? Give the date and time when it occurred, the location where it occurred, and what actually happened. **PLEASE BE SPECIFIC IN WHAT HAPPENED!** (I.e. Do not just say he/she threatened me, state exactly what was said).

START WITH THE NEWEST AND WORK BACKWARDS.

WRITE IN THE DATE, TIME AND PLACE WHERE THE INCIDENT OCCURRED.

1. Date & Time: July 9, 2014 apx 6 Location: Grosse Pointe Woods
What Happened? I was talking to my friend
when he walked up to the both of us,
interrupted us talking and started talking
to her. He was just a few feet away
this is approaching.

Were the police called? ☐ Yes ☒ No If yes, police report #: _____

2. Date & Time: July Location: facebook
What Happened? He who was sent a friend
request to our very good friends and
appeared at their home - they said it
was "creepy"

Were the police called? ☐ Yes ☐ No If yes, police report #: _____

(ATTACH EXTRA SHEETS IF NECESSARY)

Has the original Personal Protection Order been served to the Respondent? ☐ Yes ☐ No
If yes, when: _____

Attach a copy of the:

1. Personal Protection Order
2. Petition
3. Verified Addendum to Petition, and
4. Proof of Service

VERIFICATION UNDER MCR 2.114(2)(b): I declare that the statements above are true to the best of my information, knowledge and belief.

8.22.2014
Date

Katharine Barr
Signature of Petitioner

Lower Court or Tribunal WAYNE CIRCUIT COURT	STATE OF MICHIGAN IN THE COURT OF APPEALS	CASE NO.		
	Cover Sheet	CIRCUIT:	Year: 14	Number: 103922
		COURT OF APPEALS:	322684	

Filing Party				
Filing Party Last Name or Business/Entity/Agency Name HALL JEFFERY THOMAS			Attorney Last Name Saylor	
Filing Party First Name M.I.			Attorney First Name M.I. P Number	
Address (Street 1, Street 2, City, State, and ZIP Code)			Address(Street 1, Street 2, City, State, and ZIP Code)	
			Miller, Canfield, Paddock & Stone, PLC	
			150 W. Jefferson, Suite 2500	
			Detroit MI 48226	
			Attorney Telephone Number (313)496-7986	

Summary of Items Filed				
Type	Filename/Description	Filing Fee	Doc Fee	Total This Filing
Brief	Defendant-Appellant's Brief on Appeal, Oral Argument Requested	\$5.00	\$0.00	\$5.00
		3% Service Fee:		\$0.15
Fee Substitute/Alternate Payment		Total All Filings:		\$5.15
Reason:				
<input type="checkbox"/>	Appointed Counsel			
<input type="checkbox"/>	Motion To Waive Fee			
<input type="checkbox"/>	Fees Waived in this Case			
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<input type="checkbox"/>	No Fee per MCR 7.203(F)(2)			

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Lower Court or Tribunal WAYNE CIRCUIT COURT	STATE OF MICHIGAN IN THE COURT OF APPEALS Proof of Service	CASE NO. CIRCUIT: 14 COURT OF APPEALS: 322684	Year 14	Number 103922	Case Type PP
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Case Name: KATHARINE LEE BARR V JEFFREY THOMAS HALL

On 9/2/2014, one copy of the following documents:

Brief Defendant-Appellant's Brief on Appeal, Oral Argument Requested

was delivered to the persons listed below:

Date

9/2/2014

Signature

/s/Larry J. Saylor

Bar Number	Name	Delivery Method	Service Address
P-	Baldwin, Sandra L.	E-Serve	baldwin@millercanfield.com
P-	Barr, Katharine Lee	Mail	1532 Hollywood Avenue; Grosse Pointe Woods, MI 48236
P- P28165	Saylor, Larry J.	E-Serve	saylor@millercanfield.com

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